

Issue No. 2022041

4 Nov 2022

# China Tax Center

# China Tax & Investment Express

*China Tax & Investment Express (CTIE)\** brings you the latest tax and business announcements on a weekly basis. We selected some comparatively key announcements to provide for a synopsis and we also provide a link that leads you to the full content of each latest announcement (in Chinese). Please feel free to contact your EY client service professionals for further assistance if you find the announcements have an impact on your business operations.

CTIE does not replace our *China Tax & Investment News\** which will continue to be prepared and distributed to provide more in-depth analyses of topical tax and business developments in China.

\*If you wish to access the previous issues of CTIE and *China Tax & Investment News*, please contact us.

## Tax circulars

- ▶ **Public notice (PN) regarding the collection of Consumption Tax (CT) on electronic cigarettes (MOF/GAC/STA PN [2022] No. 33)**
- ▶ **PN regarding matters related to the collection of CT on electronic cigarettes (STA PN [2022] No. 22)**

## Synopsis

In November 2021, the State Council released the revised Regulations for the Implementation of the Law of the People's Republic of China on Tobacco Monopoly (hereinafter referred to as the "Revised Regulations") to specify that electronic cigarettes (hereinafter referred to as the "E-Cigarettes") shall be subject to the administrative rules for tobacco therein.



To improve the taxation system of CT and guide a healthy trend of consumption, the Ministry of Finance (MOF), General Administration of Customs (GAC) and State Taxation Administration (STA) jointly announced MOF/GAC/STA PN [2022] No. 33 ("PN 33") on 2 October 2022 to include electronic cigarettes in the taxation scope of CT from 1 November 2022.

To cope with PN 33, the STA released STA PN [2022] No. 22 ("PN 22") on 25 October 2022 to specify the relevant tax invoicing and filing issues, etc.

Key features of PN 33 and PN 22 are as follows:

Items	Details									
Definition of E-Cigarettes	E-Cigarettes refer to electronic delivery systems used to produce aerosols inhaled by users, which generally contain tanks, mods or compounds of tanks and mods.									
Taxpayers	<p>CT taxpayers are the entities or individuals that produce (including import) or wholesale E-Cigarettes within the territory of China.</p> <p>The manufacturers and wholesalers should obtain the required licenses for engaging in production/wholesale of E-Cigarettes.</p>									
CT rates	<p>CT on E-Cigarettes shall be taxed on an ad valorem taxation basis:</p> <ul style="list-style-type: none"> <li>▶ 36% for the phase of production/importation</li> <li>▶ 11% for the phase of wholesale</li> </ul>									
Taxable basis	<table border="1"> <thead> <tr> <th>Transactions</th> <th>Taxable basis</th> </tr> </thead> <tbody> <tr> <td>Production/wholesale of E-Cigarettes</td><td>Amount of sales of E-Cigarettes for production/wholesale</td></tr> <tr> <td>Agency sales of E-Cigarettes</td><td>Amount of sales of E-Cigarettes charged to the wholesalers by the distributors</td></tr> <tr> <td>Importation of E-Cigarettes</td><td>Composite assessable price (i.e., Dutiable value + Customs Duty) ÷ (1-CT rate)</td></tr> </tbody> </table>	Transactions	Taxable basis	Production/wholesale of E-Cigarettes	Amount of sales of E-Cigarettes for production/wholesale	Agency sales of E-Cigarettes	Amount of sales of E-Cigarettes charged to the wholesalers by the distributors	Importation of E-Cigarettes	Composite assessable price (i.e., Dutiable value + Customs Duty) ÷ (1-CT rate)	
Transactions	Taxable basis									
Production/wholesale of E-Cigarettes	Amount of sales of E-Cigarettes for production/wholesale									
Agency sales of E-Cigarettes	Amount of sales of E-Cigarettes charged to the wholesalers by the distributors									
Importation of E-Cigarettes	Composite assessable price (i.e., Dutiable value + Customs Duty) ÷ (1-CT rate)									
Average profit rate for E-Cigarettes (for CT calculation on a deemed basis)	10%									
Exportation	Exportation of E-Cigarettes shall be applicable to the export refund (exempt) policy.									

It is obvious that including E-Cigarettes in the CT taxation scope shall result in the increase of costs of E-Cigarettes. However, comparing to traditional cigarettes which are subject to CT on both taxation basis of ad valorem and quantities, E-Cigarettes are only subject to CT on taxation basis of ad valorem.

Both PN 33 and PN 22 became effective on 1 November 2022. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of the Revised Regulations:  
[http://www.gov.cn/zhengce/content/2021-11/26/content\\_5653631.htm](http://www.gov.cn/zhengce/content/2021-11/26/content_5653631.htm)

You can click this link to access the full contents of PN 33:  
[https://jiangsu.chinatax.gov.cn/art/2022/10/26/art\\_8349\\_402335.html](https://jiangsu.chinatax.gov.cn/art/2022/10/26/art_8349_402335.html)

You can click this link to access the full contents of PN 22:

[http://anhui.chinatax.gov.cn/art/2022/10/28/art\\_13773\\_62414.html](http://anhui.chinatax.gov.cn/art/2022/10/28/art_13773_62414.html)

You can click this link to access the full contents of STA's official interpretation on PN 22:

[http://anhui.chinatax.gov.cn/art/2022/10/27/art\\_9435\\_1016253.html](http://anhui.chinatax.gov.cn/art/2022/10/27/art_9435_1016253.html)

## Business circulars

### ► **Catalogues of Encouraged Industries for Foreign Investments (2022 Version) (NDRC/MOFCOM Order [2022] No. 52)**

#### **Synopsis**

On 26 October 2022, the National Development and Reform Commission (NDRC) and Ministry of Commerce (MOFCOM) jointly released the Catalogues of Encouraged Industries for Foreign Investments (2022 Version) (hereinafter referred to as the "2022 Catalogues") via NDRC/MOFCOM Order [2022] No. 52, aiming to further stabilize foreign investment and expand the scope of encouraged industries for foreign investments.

Compared to the Catalogues of Encouraged Industries for Foreign Investments (2020 Version) (hereinafter referred to as the "2020 Catalogues"), 239 of encouraged items are newly added and 167 items are revised in the 2022 Catalogues.

Key changes in the 2022 Catalogues include:

- Continue to encourage foreign investments in manufacturing as a key direction to improve the supply chain on a nationwide basis.
- Continue to guide foreign investments in the integrated development of service and manufacturing industries on a nationwide basis.
- Further encourage foreign investments in the central and western regions with considerations of the labor, distinctive resources, etc. of the specific areas.

It is also worth-noting that foreign investment enterprises or projects under the Catalogues of Encouraged Industries for Foreign Investments shall be applicable to certain preferential tax policies, including:

- Exempt tariffs for imports of qualifying self-use equipment within the total amount of investment.
- Reduce Corporate Income Tax rate to 15% for eligible foreign investment enterprises that engage in encouraged industries in western regions (from 1 January 2021 to 31 December 2030) and in Hainan Province (from 1 January 2020 to 31 December 2024).

The 2022 Catalogues shall take effect on 1 January 2023 and replace the 2020 Catalogues at the same time.

We have issued a WeChat news article (in Chinese) on 2 November 2022 to discuss the 2022 Catalogues and the relevant policies in greater detail. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE or click the weblink below.

You can click this link to access the full contents of the 2022 Catalogues:

[https://www.ndrc.gov.cn/xgk/zcfb/fzggwl/202210/t20221028\\_1339662.html?code=&state=123](https://www.ndrc.gov.cn/xgk/zcfb/fzggwl/202210/t20221028_1339662.html?code=&state=123)

You can click this link to access the full contents of the 2020 Catalogues:

<http://wzs.mofcom.gov.cn/article/n/202012/20201203026619.shtml>

You can click this link to access the full contents of the WeChat article:

<https://mp.weixin.qq.com/s/HCBFg6Xw4G3zSumabb2ipw>

- ▶ **Notice regarding the plan of work division for key tasks of the 10th teleconference for deepening the reform of "delegate power, streamline administration and optimize government services" nationwide (Guobanfa [2022] No. 37)**
- ▶ **Policy measures on focusing on the manufacturing industry to promote the expansion, stabilize the stock and improve the quality of foreign investment (Fagaiwaizi [2022] No. 1586)**

## **Synopsis**

To deepen the reform of "delegate power, streamline administration and optimize government services" and optimize the business environment, on 15 October 2022, the General Office of the State Council introduced the plan of work division for key tasks of the 10th teleconference for deepening the reform of "delegate power, streamline administration and optimize government services" nationwide (hereinafter referred to as the "Plan").

Key measures mentioned in the Plan are summarized as follows:

### **Economic reforms**

- ▶ Implement the Regulations on Promoting the Development of Self-employed Industrial and Commercial Households and protect legitimate rights and interests of self-employed industrial and commercial households.
- ▶ Carry out special action of law enforcement to stop the abuse of administrative power to eliminate and restrict competition, further improve the fair competition review system, and effectively maintain fair market competition.
- ▶ Constantly clean up hidden thresholds and unreasonable restrictions in bidding, and severely crack down on illegal behaviors.
- ▶ Implement the reform measures of approval for land use, planning, environmental impact assessment, construction permits, water and soil conservation of key projects.
- ▶ Continue to deepen the market-oriented interest rate reform and enhance the effect of the market-oriented adjustment mechanism of deposit interest rates.
- ▶ Extend the implementation of Vehicle Purchase Tax Exemption for new energy vehicles (NEV). Support the development of the NEV industry and promote automobile consumption.
- ▶ Set up one more batch of cross-border e-commerce comprehensive pilot zones by the end of 2022 and accelerate the introduction of more policy measures to support the development of overseas warehouses.
- ▶ Continue to deepen the reform of customs clearance facilitation and promote online customs clearance.
- ▶ Formulate and introduce policies focusing on the manufacturing industry to promote the expansion, stabilize the stock and improve the quality of foreign investment by the end of 2022, and further optimize the foreign investment environment.

### **Improve the efficiency of government services**

- ▶ Implement and improve the list-based system for administrative licensing items, and constantly promote the standardization, normalization and facilitation of administrative licensing.
- ▶ Enhance the implementation of the Administrative Penalty Law, clarify the standards of administrative penalty discretion, and strictly regulate administrative fines.
- ▶ Implement the Negative List of Market Access (2022 Version) and improve the system for handling complaints by market entities against hidden barriers.
- ▶ Provide one-stop services for enterprise startup, enterprise related real estate registration, recruitment, and simplified business deregistration by the end of 2022.

- ▶ Accelerate the construction of government affairs big data system.
- ▶ Further expand the scope of pilot business environment innovation.

#### Promote the implementation of policies

- ▶ Accelerate the effectiveness of policies with the reform of “delegate power, streamline administration and optimize government services”, promote support policies to be implemented for market entities as soon as possible and simplify handling procedures.
- ▶ Strengthen the implementation of policies to support enterprises and stabilize employment.
- ▶ Accelerate the relevant handling procedures for the increase of coal production on the premise of production safety and ecological safety.
- ▶ Constantly promote smooth logistics and stabilize industrial and supply chains.

On 13 October 2022, the NDRC and several ministries jointly released 15 policy measures (hereinafter referred to as the “Policy Measures”) via Fagaiwaizi [2022] No. 1586 to promote the expansion, stabilize the stock and improve the quality of foreign investment focusing on the manufacturing industry, aiming to optimize the investment environment, improve investment services and guide investment directions.

Interested parties are advised to read the Plan and Policy Measures for details to make appropriate investment plans and leverage the benefits offered.

We have issued a WeChat news article (in Chinese) on 27 October 2022 setting out extensive discussions on the Policy Measures. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE or click the weblink below.

You can click this link to access the full contents of the Plan:

[http://www.gov.cn/zhengce/content/2022-10/26/content\\_5721739.htm](http://www.gov.cn/zhengce/content/2022-10/26/content_5721739.htm)

You can click this link to access the full contents of Policy Measures:

<http://www.mofcom.gov.cn/article/zcfb/zcwgtz/202210/20221003360524.shtml>

You can click this link to access the full contents of the WeChat article:

<https://mp.weixin.qq.com/s/WfWzOWerptHzEzKxYDRZQ>

#### Other business and customs-related circulars publicly announced by central government authorities in the past week:

- ▶ **Notice regarding certain measures on intellectual property rights supporting the innovative development of “Specialized, Sophisticated, Distinctive and Innovative” small and medium-sized enterprises (Guozhifayunzi [2022] No. 38)**  
[http://www.cnipa.gov.cn/art/2022/10/24/art\\_75\\_179782.html](http://www.cnipa.gov.cn/art/2022/10/24/art_75_179782.html)
- ▶ **Regulations on Promoting the Development of Self-employed Industrial and Commercial Households (State Council Order [2022] No. 755)**  
[http://www.gov.cn/zhengce/content/2022-10/25/content\\_5721592.htm](http://www.gov.cn/zhengce/content/2022-10/25/content_5721592.htm)
- ▶ **Notice regarding expanding the application scope of the sign-in system for certification and audits (Guorenjian [2022] No. 4)**  
[https://gkml.samr.gov.cn/nsjg/rzjgs/202210/t20221027\\_351070.html](https://gkml.samr.gov.cn/nsjg/rzjgs/202210/t20221027_351070.html)

- ▶ **Notice regarding public opinions consultation on the "Regulations on Information Disclosure of Public Accounting Firms Engaged in Securities Services (Discussion Draft)" (Caibankuai [2022] No. 34)**  
[http://kjs.mof.gov.cn/gongzuotongzhi/202210/t20221025\\_3847644.htm](http://kjs.mof.gov.cn/gongzuotongzhi/202210/t20221025_3847644.htm)
- ▶ **Notice regarding matters related to promoting the healthy development of photovoltaic industrial chain (Fagaibanyunxing [2022] No. 788)**  
[https://www.ndrc.gov.cn/xxgk/zcfb/tz/202210/t20221028\\_1339677.html?code=&state=123](https://www.ndrc.gov.cn/xxgk/zcfb/tz/202210/t20221028_1339677.html?code=&state=123)
- ▶ **Administrative Measures for Drug Recall (NMPA PN [2022] No. 92)**  
<https://www.nmpa.gov.cn/directory/web/nmpa/xxgk/ggtg/qtggtg/20221026164304199.html>
- ▶ **PN regarding fully implementing electronic registration certificates for medical devices (NMPA PN [2022] No. 91)**  
<https://www.nmpa.gov.cn/xxgk/ggtg/qtggtg/20221026155043182.html>
- ▶ **Notice regarding the guidelines on the construction of a national integrated government big data system (Guobanhan [2022] No. 102)**  
[http://www.gov.cn/zhengce/content/2022-10/28/content\\_5722322.htm](http://www.gov.cn/zhengce/content/2022-10/28/content_5722322.htm)
- ▶ **PN regarding expanding the pilot program of market procurement trade (GAC PN [2022] No. 101)**  
<http://www.customs.gov.cn/customs/302249/2480148/4642213/index.html>



## Contact us

For more information, please contact your usual EY contact or one of the following EY's China tax leaders.

### Greater China Tax Leader

**Vickie Tan**

+86 21 2228 2648

Vickie.Tan@cn.ey.com

---

### Our tax leaders by service segment

**Andrew Choy**

**International Tax and Transaction Services**

+86 10 5815 3230

Andrew.Choy@cn.ey.com

**Becky Lai**

**Tax Policy**

+852 2629 3188

Becky.Lai@hk.ey.com

**Alan Lan**

**Global Compliance and Reporting**

+86 10 5815 3389

Alan.Lan@cn.ey.com

**Jesse Lv**

**ITTS - Transaction Tax**

+86 21 2228 2798

Jesse.Lv@cn.ey.com

**Travis Qiu**

**ITTS - Transfer Pricing**

+86 21 2228 2941

Travis.Qiu@cn.ey.com

**Chuan Shi**

**Tax Technology and Transformation**

+86 21 2228 4306

Chuan.Shi@cn.ey.com

**Carrie Tang**

**Business Tax Services**

+86 21 2228 2116

Carrie.Tang@cn.ey.com

**Bryan Tang**

**Indirect Tax - Global Trade**

+86 21 2228 2294

Bryan.Tang@cn.ey.com

**Paul Wen**

**People Advisory Services**

+852 2629 3876

Paul.Wen@hk.ey.com

**Kevin Zhou**

**Indirect Tax - VAT**

+86 21 2228 2178

Kevin.Zhou@cn.ey.com

### Our tax leaders by service areas

**Andrew Choy (China North)**

+86 10 5815 3230

Andrew.Choy@cn.ey.com

**Ho Sing Mak (China South)**

+86 755 2502 8289

Ho-Sing.Mak@cn.ey.com

**Wilson Cheng (Hong Kong)**

**SAR/Macau SAR**

+852 2846 9066

Wilson.Cheng@hk.ey.com

**Heidi Liu (Taiwan)**

+886 2 2757 8888

Heidi.Liu@tw.ey.com

---

**Author - China Tax Center**

**Jane Hui**

+852 2629 3836

Jane.Hui@hk.ey.com

**EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.**

**Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.**

**Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.**

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients, nor does it own or control any member firm or act as the headquarters of any member firm. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via [ey.com/privacy](http://ey.com/privacy). EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit [ey.com](http://ey.com).

© 2022 Ernst & Young, China.  
All Rights Reserved.

APAC no. 03015941  
ED None.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

**[ey.com/china](http://ey.com/china)**

### **Follow us on WeChat**

Scan the QR code and stay up-to-date with the latest EY news.

